IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.Rev.Pet.No. 874 of 2000(A)

CC.325/1991 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, MANJERI
CRA.28/1994 of SESSIONS COURT, MANJERI

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REVN. PETITIONER/APPELLANT/ACCUSED:

VALLIKKAPARAMBIL MUHAMMED MUSTHAFA,
S/O.SAIDALAVI, EDAKKARA AMSOM DESOM,
P.O.EDAKKARA, MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY
SUB INSPECTOR OF POLICE, EDAVANNA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO.4627/2000 IN CRL.R.P. NO.874/2000

CLOSED.

SD/-
3.8.07 K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

JP

K.R.UDAYABHANU, J.

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Crl.R.P.No.874 of 2000

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Dated this the 3rd day of August, 2007

O R D E R

The revision petitioner stands convicted for the offence under Sections 304A and 279 I.P.C and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.2,000/- and in default to undergo simple imprisonment for three months for the offence under Section 304A I.P.C and to undergo rigorous imprisonment for three months for the offence under Section 279 I.P.C.

2. The prosecution case is that on 01/12/1990, at about 6 p.m., the jeep bearing registration No.KRM 3728, driven by the accused in a rash and negligent manner, so as to endanger human life , through Manjeri-Nilambur road and at Kunduthode hit one Manjan, who was walking through the northern side of the road and that he succumbed to the injuries on 20/12/1990.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 14 and Exts.P1 to P9. The courts below have concurrently found that the accused is guilty of the offence.

4. On a consideration of the evidence adduced in the matter, I find hardly any scope for interference. The incident as such has not been disputed except a feeble suggestion put in the cross-examination of PW.8, the occurrence witness, that the incident took place when the deceased suddenly crossed the road. The identity of the accused stands proved from the evidence of PW.9 and as well as Ext.P7 trip sheet. The death is proved from the evidence of PW.7, the doctor who conducted the post-mortem and issued Ext.P4 certificate. Ext.P3, the wound certificate has been proved through PW.6.

In the circumstances, in the light of the concurrent findings of the courts below, I find that the conviction of the accused is only to be confirmed; and I do so. So far as the sentence is concerned, the counsel for the revision petitioner has sought for leniency

pointing out that since the date of the incident about 17 years have elapsed and so far the revision petitioner has been facing the ordeal of criminal proceedings. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay compensation of rupees twenty-five thousand to the legal representatives of the deceased and in default to undergo simple imprisonment for four months for the offence under Section 304A IPC. No separate sentence is awarded for the offence under Section 279 I.P.C. The revision petitioner is granted three months time to remit the amount of compensation. The revision petitioner/accused shall appear before the Judicial Magistrate of the First Class-I, Manjeri, on 06/11/2007 to receive the sentence.

The criminal revision petition is disposed of as above.

Sd/-
K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.R.P.No.874 of 2000

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O R D E R

3rd August, 2007